

# FACT SHEET

## The New Jersey Family Leave Act

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### What Rights Do I Have if I Need to Take Time Off From Work to Care for a Close Family Member?

Under the New Jersey Family Leave Act, certain employees are entitled to take leave without losing their jobs as long as the following conditions are met:

**Employer** - The employer must have at least 50 employees who have been working for at least 20 weeks during the current or previous year. When counting the number of employees, all of the employer's employees, whether located in New Jersey or not, are included.

**Employee** - The employee who wants to take leave must have worked for that employer for one year and must have worked at least 1,000 hours, including paid overtime hours, during the 12 months immediately prior to taking the leave.

**Exception** - An employer may deny leave to employees whose salaries are within the highest 5% of all employees if their absence would have a substantial negative effect on the business. The same is true for the seven most highly paid employees. The employer must provide proper notice to the employee that they fall into this category.

### What Circumstances Entitle Me to Take Family Leave?

The New Jersey Family Leave Act permits leave to be taken for:

- the care of a newly born or adopted child, as long as leave begins within one year of the date the child is born to or placed with the employee; or
- the care of a parent, child under 18 or spouse who has a serious health condition requiring in-patient care, continuing medical treatment or medical supervision. The Family Leave Act considers parents to be: in-laws, step-parents, foster parents, adoptive parents, or others having a parent-child relationship with an employee.

### How Much Leave Am I Entitled to?

Each eligible employee may take up to 12 weeks of continuous leave during a given 24-month period, which begins on the first day of leave.

In certain situations, an employee may take leave that is not continuous, for example, a reduced work schedule. Sometimes an employer's approval is necessary for this type of arrangement.

### What Notice Has to Be Given to the Employer?

An employer is entitled to require the employee to give 30 days notice for leave related to the birth or adoption of a child. In the case of relative's serious health condition, 15 days notice may be required.

If an emergency arises, reasonable notice must still be given.

### Can I Take Family Leave if I Am Also Entitled to Disability Leave?

New Jersey family leave is separate from any leave an employee may take for his or her own disability.

### Is The New Jersey Family Leave Act Identical to The Federal Family and Medical Leave Act ?

They are similar, but there are some differences. Some of the differences are:

- Unlike the New Jersey Act, federal law does allow an employee to use leave time for his or her own medical condition.
- While the state law provides for 12 weeks of leave in a given 24-month period, federal law provides for 12 weeks of eligible leave within a period of 12 months.

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- The New Jersey FLA applies to companies with 50 or more employees nationwide. The federal FMLA applies to all employers with 50 or more employees within 75 miles of each other.

In situations where a leave is covered by both the New Jersey Family Leave Act and the federal Family and Medical Leave Act (i.e. family leave), the employee is entitled to only one period of leave of up to twelve weeks in a twelve month period to care for a family member.

A leave granted due to the employee's disability is covered only by the federal FMLA and may be followed by an additional leave for the care of a family member under the New Jersey Family Leave Act.

## What Am I Entitled to When I Return to Work?

Employees are generally entitled to the same position held before the leave.

**Exception:** If the original position is no longer available when the employee returns, the employer must offer an equivalent position in terms of pay, benefits and status.

**Layoff:** If a layoff occurred while the employee was on leave, the employee retains the same rights as if no leave had been taken.

## Can My Employer Require Proof of Eligibility as a Condition of Leave?

The employer is entitled to request verification of the qualifying condition, such as a doctor's certification that a serious health condition exists. In other words, a medical certification may be required, but an employer cannot require an employee to certify that he/she is eligible for family leave. This is the employer's responsibility.

## What Can I Do if I Am Unlawfully Denied Family Leave?

If you believe that you have been denied family leave or have been the victim of unlawful discrimination, please visit or phone us at the NJ Division on Civil Rights office closest to where you live or where the violation or discrimination occurred. Our addresses and phone numbers are at the end of this fact sheet. Our services are free.

When you come to us, an initial evaluation will determine if your claim is covered under the law. If it is, the Division will then conduct an investigation into your allegations. If the investigation shows enough evidence to support your complaint, and your complaint cannot be settled, a hearing will be held in the Office of Administrative Law.

The Division is only able to investigate your complaint if it is filed within 180 days of the last act of alleged discrimination.

You may also have the right to file a lawsuit under the FLA in state Superior Court, with or without the assistance of an attorney. A Superior Court action must be filed within two years from the act of discrimination.

It is against the law for anyone to retaliate against you because you have complained to us.

For more information, contact the office nearest your work or home or visit us at our Web site at [www.NJCivilRights.org](http://www.NJCivilRights.org).

### Contact Information

#### Atlantic City

26 Pennsylvania Avenue, 3<sup>rd</sup> Floor  
Atlantic City, NJ 08401

**(609) 441-3100 (Phone)**  
(609) 441-3578 (Fax)  
(609) 441-7648 (TTY)

#### Camden

One Port Center  
2 Riverside Drive, Suite 402, 4th Floor  
Camden, NJ 08103

**(856) 614-2550 (Phone)**  
(856) 614-2568 (Fax)  
(856) 614-2574 (TTY)

#### Jersey City

Housing Resource Center  
574 Newark Avenue  
Jersey City, NJ 07306  
Every Wednesday, Walk-in Office Only

#### Newark

31 Clinton Street, 3<sup>rd</sup> Floor / P.O. Box 46001  
Newark, NJ 07102

**(973) 648-2700 (Phone)**  
(973) 648-4405 (Fax)  
(973) 648-4678 (TTY)

#### Paterson

100 Hamilton Plaza, 8<sup>th</sup> Floor  
Paterson, NJ 07501

**(973) 977-4500 (Phone)**  
(973) 977-4511 (Fax)  
(973) 977-1955 (TTY)

#### Trenton

140 East Front Street, 6<sup>th</sup> Floor / P.O. Box 090  
Trenton, NJ 08625-0090

**(609) 292-4605 (Phone)**  
(609) 984-3812 (Fax)  
(609) 292-1785 (TTY)